

**REMARKS**

This amendment is being filed in response to the Non-Final Office Action mailed on August 6, 2008. In that Office Action, the prior amendment to the specification was objected to as introducing new matter under 35 U.S.C. §132(a). Also, claims 1, 11, and 16 were rejected under 35 U.S.C. §112 and claims 1-20 were rejected on prior art grounds. No amendments have been made. Accordingly, claims 1-20 remain pending in the application.

**Objections under §132(a)**

The Office Action objects to the prior specification amendment as introducing new matter under 35 U.S.C. §132(a). Applicant disagrees with this objection for the reasons discussed below.

The amendment involves matter included in the originally-filed disclosure and was submitted to improve consistency between the drawings and specification. In particular, the specification was amended to indicate that the satellite radio receiver can either be embedded within the telematics unit, as originally stated in the specification, or can be a separate component, as shown in Figs. 1 and 3. In this regard, the Office Action rejection appears to ignore the disclosure in Figs. 1 and 3 of Applicant's application showing the satellite radio receiver (140, 340) separate from the telematics unit (120, 320). The Office Action argues that the added material is not supported by the original disclosure. But the disclosure encompasses more than just the written description. The subject matter disclosed in an application includes the specification, claims, and drawings. As stated in MPEP §2163.06, "information contained in any one of the specification, claims, or drawings of the application as filed may be added to any other part of the application without introducing new matter." (Emphasis added) Figs. 1 and 3 are part of the originally-filed disclosure and show the satellite radio receiver (140, 340) separate from the telematics unit (120, 320). Because Figs. 1 and 3 disclose a satellite radio receiver located separately from a telematics unit and the written description discloses the receiver embedded in a telematics unit, editing the specification

to indicate both arrangements are possible cannot be new matter. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of this objection.

### **Rejections under §112**

Claims 1, 11, and 16 were rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Applicant respectfully disagrees with this rejection and the reasoning supporting it. The Office Action states that the limitation “communicating the vehicle data upload command signal between the satellite radio receiver and a telematics unit” is not found in the original specification. This rejection is predicated on the same basis as the above-discussed §132 objection; namely, that the specification as originally filed does not disclose a satellite radio receiver that is separate from the telematics unit and, thus, the vehicle data upload (VDU) command signal cannot be communicated between the satellite radio receiver and telematics unit. However, as discussed above, the application as originally filed does disclose that these two devices can be separate (see Figs. 1 and 3) and, even if embedded within the telematics unit, the VDU command signal can be communicated from the embedded receiver to the remainder of the telematics unit.

Paragraph [0079] of Applicant’s published application<sup>1</sup> discloses transmitting a vehicle data upload command signal in a satellite radio broadcast that is received as radio signals at the satellite radio receiver in the mobile vehicle. Paragraph [0080] then teaches that the telematics unit monitors the received satellite radio broadcast for the VDU command signal. And, looking at Fig. 1 for example, it would be clear to one skilled in the art that this occurs by sending the received satellite radio broadcast from the satellite radio receiver 140 to the telematics unit 120 where it is monitored and the VDU command signal is then extracted. Thus, the application as filed, makes clear to one skilled in the art that the application discloses “communicating the vehicle data upload command signal between the satellite radio receiver and a telematics unit on a vehicle.”

Accordingly, Applicant respectfully requests withdrawal of the §112 rejection.

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<sup>1</sup> Oesterling, U.S. Publication No. 2004/0142659

**Rejections under §102(e)**

Pending claims 1-20 stand rejected under 35 U.S.C. §102(e) as being anticipated by Lange et al. (U.S. Patent No. 6,704,564). Applicant respectfully traverses the rejections for the reasons discussed below.

**Claims 1, 11, and 16**

Independent claim 1 recites a method of initiating a vehicle data upload function at a plurality of mobile vehicles. The method includes monitoring a radio system broadcast channel using a satellite radio receiver in each of the plurality of mobile vehicles for a call center initiated vehicle data upload command signal at the plurality of mobile vehicles, and, for each of the plurality of mobile vehicles, determining at the plurality of mobile vehicles whether the vehicle data upload command signal corresponds to that mobile vehicle, extracting the vehicle data upload command signal from the broadcast channel based on the determination, communicating the vehicle data upload command signal between the satellite radio receiver and a telematics unit on the vehicle, and performing a vehicle data upload function using the telematics unit based on the extracted vehicle data upload command signal. While involving different limitations than claim 1, the remarks below are equally valid for independent claims 11 and 16.

Lange is directed to a method and system for allowing telecommunications devices to be configured with numerous combinations of filters and triggers without returning the device to a service center. Lange teaches transmitting a trigger configuration signal to a telecommunications device and storing that signal in memory. The trigger configuration signal is an electronic message that instructs the telecommunications device to use triggers or combinations of triggers at a given time. Lange discloses a telematics device 210 receiving a configuration signal 250 from a service center. The configuration signal 250 includes a dynamic logic expression 262 and instructs the telematics device 210 to update a trigger configuration and transmit a message relating to fleet management if the dynamic logic expression 262 is satisfied.

As stated in the last response, Lange fails to disclose or otherwise teach the elements of Applicant's claims. For example, the subject matter of Applicant's current claims involves monitoring a radio system broadcast channel at a satellite radio receiver. In order for Lange to anticipate the subject matter of Applicant's claim, Lange must disclose each and every element of the claim. However, Lange is silent as to Applicant's claimed subject matter reciting a satellite radio receiver detecting a vehicle data upload command signal and communicating that signal to a telematics device. Lange, on the other hand, only discloses receiving a configuration signal 250 from a service center at a telematics device 210.<sup>2</sup> Differently put, Lange involves receiving signals sent directly from a service center to a plurality of telematics devices while Applicant's claim involves receiving a signal at a satellite radio receiver and transmitting the signal from the satellite radio receiver to the telematics unit.

Furthermore, there is no apparent reason why one of ordinary skill in the art would modify the teachings of Lange or combine its teachings with another reference to make up for the above-noted deficiencies. Simply put, there is no reason why one of ordinary skill in the art would modify the system disclosed by Lange to monitor a radio system broadcast channel using a satellite radio receiver for a vehicle data upload command signal, nor why they would send the received signal to a telematics unit from the receiver. Nor is there any disclosure from Lange that would enable such an approach to vehicle data upload. Rather, the teaching to do so, and the means of accomplishing this result appears only to be disclosed by Applicant himself. Accordingly, it is respectfully submitted that claims 1, 11, and 16 patentably define over the prior art. Claims 2-10, 12-15, and 17-20 depend, respectively, from claims 1, 11 and 16 and should be allowed therewith.

### **Conclusion**

In view of the foregoing, Applicant submits that all claims are allowable. Reconsideration is therefore requested. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

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<sup>2</sup> Lange, U.S. Patent No. 6,704,564, col. 5, lines 29-31.

The Commissioner is hereby authorized to charge Deposit Account No. 07-0960 for any required fees or to credit that same deposit account with any overpayment associated with this communication.

Respectfully submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.

/James D. Stevens/

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JDS/ECC

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